

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP/(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Rezoning
ZB 4-5-01 Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth
Bank, Trustee of the Fuselli Trust, 4450 Flamingo Road

TITLE OF AGENDA ITEM: ZB 4-5-01 Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth Bank, Trustee of the Fuselli Trust, 4450 Flamingo Road (AG to CF)

REPORT IN BRIEF:

The applicant requests a rezoning of the 5.928 acre subject site from AG, Agricultural District to CF, Community Facilities District for the purpose of construction of a water retention and a passive recreation area associated with the proposed Westridge Commons development to the south. The parcel is contiguous to the site to the south and is under joint ownership. The proposed zoning will be consistent with the Town and Broward County Residential (1 DU/Acre) Land Use Plan designation. The subject site meets the Land Development Code's conventional nonresidential development criteria. The proposed use of the subject site as a water retention and passive recreation area is a compatible use and will not adversely effect living conditions of the surrounding area. In addition, this designation will not increase traffic intensities beyond the levels that were anticipated by the Residential (1 DU/Acre) Land Use Plan designation.

PREVIOUS ACTIONS:

Town Council tabled the item from the September 6, 2001 to the September 19, 2001 meeting at the request of the applicant (5-0).

Town Council tabled the item from the September 19, 2001 to the October 3, 2001 meeting at the request of the applicant (5-0).

Town Council tabled the item from the October 3, 2001 to the November 7, 2001 meeting at the request of the applicant (5-0).

CONCURRENCES: The Planning and Zoning Board recommended denial at its August 22, 2001 meeting (3-2, Ms. Moore and Ms. Turin opposed).

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Justification letter, Land use map, Subject site map, Aerial

DEVELOPMENT SERVICES DEPARTMENT

Planning & Zoning Division

MEMORANDUM

PZ 11-03-01

TO: Thomas J. Willi, Town Administrator

THRU: Mark Kutney, AICP, Development Services Director

FROM: Christopher M. Gratz, Planner II

DATE: November 1, 2001

RE: Westridge Commons: P 5-1-01, ZB 4-5-01, ZB 4-6-01, V 4-3-01
Petitioner/Owner: Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth Bank, Trustee of the Fuselli Trust

Attached is a revised concept plan submittal from the Stiles Development Corporation for the above captioned petitions. The basis for the resubmittal is to address resident concerns and the Planning and Zoning Board's recommendation of denial for all of the petitions.

The revised site layout shows new locations for the grocery store, linear strip retail, and outparcel #2. The grocery store and linear strip retail have traded places and have been reconfigured. Included in the grocery store modification is a truck turning area so that grocery delivery vehicles will utilize Flamingo Road exclusively. The change in location of outparcel #2 could result in variance petition V 4-3-01 being withdrawn. The size of the overall development has been reduced by 40,000 square feet. The two (2) proposed openings along Orange Drive have been modified. The concept plan now shows one (1) 60' unrestricted access opening along Orange Drive.

A table of restrictions has been added to the concept plan. These restrictions include but are not limited to: restricting permitted uses to those allowed in B-2, Community Business Districts, maximum center size of 160,000 square feet, maximum individual building size of 60,000 square feet, maximum building height of 25' on the east 300' of the site, maximum height of light poles of 25'. Provided along the eastern boundary is a landscape buffer of 70', 8' concrete wall that extends 90' along Orange Drive, a 10' berm, 1 shade tree 14-16' in height per 20 lineal feet of berm, 1 accent tree 10-12' in height per 30 lineal feet of berm, continuous row of hedge at the top of the berm, and commitment to complete berm and wall within 120 days from the start of construction.

This information has been provided to Council as an addendum to the aforementioned petitions above and does not alter or impact the staff recommendation.

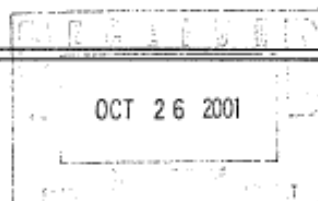


**NATIONAL DEVELOPER
OF THE YEAR**



October 25, 2001

Chris Grantz
Town of Davie
6591 Orange Drive
Davie, FL 33314



300 S.E. 2nd Street
Ft. Lauderdale, FL 33301
954.627.9160
954.627.9288 Fax
stiles.com
info@stiles.com

**RE: WESTRIDGE COMMONS
N.E.C. FLAMINGO ROAD AND ORANGE DRIVE**

Dear Chris:

In response to the issues raised at the August 22nd Planning & Zoning Board meeting, the purpose of this submittal is to request two modifications of our previous applications for the above referenced project.

1) Revised Master Plan Resubmittal:

In order to address the concerns that were raised by the homeowner's association at the Planning & Zoning Board meeting, we have made several substantial improvements to the Conceptual Master Plan. These changes are described below:

- a) Relocated the grocery store away from the east property line.
- b) Reduced the curb cuts on Orange Drive down to one opening.
- c) Increased the height of the rear berm to 10' (from 5').
- d) Lengthened the screen wall by 90' feet along Orange Drive.
- e) Provided a truck turning area so that grocery delivery vehicles enter and exit via Flamingo Road only.
- f) Relocated Outparcel #2 away from the north property line.
- g) Lowered all site light poles down to 25' (from 40').

We have also agreed to several additional restrictions that are documented in the table of restrictions that has been added to the Master Plan. These restrictions are summarized below:

- a) Reduced the maximum size of the center from 200,000 s.f. to 160,000 s.f.
- b) Limited the permitted uses to only those allowed within B2. Additionally, we have further excluded numerous B2 uses that are not a part of our development plan.
- c) Limited the maximum individual building size to 60,000 s.f.
- d) Provided shade trees on the east berm at 2x Code requirements.
- e) Provided accent trees on the east berm at 3x Code requirements.
- f) Committed to complete the rear berm and wall within 120 days of the start of the project.

Chris Grantz
October 25, 2001
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2) Withdrawal of Variance

Since Outparcel #2 has now been relocated so that it no longer lies within 250' of residentially land used property, there is no longer the need for a variance. We are therefore requesting that our Application for Variance #V4-3-01 be withdrawn.

With these modifications and restrictions, we believe that each of the concerns raised by the homeowners association has now been fully addressed. Please contact me at (954) 627-9354 if you should have any questions. Thank you very much.

Sincerely,

STILES DEVELOPMENT CO.



Stephen M. Fleisher
Director of Retail Development

[illegible]

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

APPLICANT INFORMATION

Owner:

Name: Barry Webber, Attorney-In-Fact
Address: 4430 SW 64 Avenue
City: Davie, FL 33314
Phone: (954)587-3058

Agent:

Name: Miller, Legg & Associates, Inc.
Address: 1800 North Douglas Road, Suite 200
City: Pembroke Pines, FL 33024
Phone: (954)436-7000

BACKGROUND INFORMATION

Date of Notification: August 1, 2001 **Number of Notifications:** 27

Application History: Three (3) deferrals have been requested.

Application Request: Rezone the 5.928 acre subject site **FROM:** AG, Agricultural District;
TO: CF, Community Facilities District.

Address/Location: 4450 Flamingo Road/Generally located 600 feet north of the northeast corner of Orange Drive and Flamingo Road.

Future Land Use Plan Designation: Residential (1 DU/AC)

Zoning: AG, Agricultural District

Existing Use: Vacant

Proposed Use: Water retention and passive recreation area

Parcel Size: 5.928 acres (258,223.68 square feet)

Surrounding Uses:

North: Agricultural
South: Vacant (Westridge Commons)
East: Single Family Residential (Laurel Oaks)
West: Commercial (Flamingo Commons)

Surrounding Land
Use Plan Designation:

Residential (1 DU/AC)
Commercial
Residential (1 DU/AC)
Commercial

Surrounding Zoning:

North: AG, Agricultural District

South: AG, Agricultural District (B-3, Planned Business Center District proposed)
East: R-1, Estate Dwelling District
West: B-3, Planned Business Center District

ZONING HISTORY

Related Zoning History: None

Previous Request on same property: None

APPLICATION DETAILS

The applicant requests a rezoning of the 5.928 acre subject site from AG, Agricultural District to CF, Community Facilities District for the construction of a water retention and a passive recreation area associated with the proposed Westridge Commons development to the south. The parcel is contiguous to the site to the south and is under joint ownership. This parcel ties into variance petition V 4-3-01 because of its Residential (1 DU/AC) land use classification. Outparcel #2 on the Westridge Commons master plan is proposed to be a service station, and the Code requires 250 foot separation between a service station and property that has a residential land use classification.

Applicable Codes and Ordinances

1. Section 12-307 of the Land Development Code, review for rezonings.
 2. Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, CF, Community Facilities District, requires minimum lot area of 43,560 square feet, minimum lot frontage of 100 feet, minimum front setback of 50 feet, side and rear setbacks of 25 feet, and maximum building height of 35 feet.
 3. Section 12-34(Y)(2) of the Land Development Code, Service Stations and Motor Fuel Pump Islands, states that there shall be a minimum distance of two hundred fifty (250) feet between property occupied by a service station and the nearest points on any lot land use plan designated residential.
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Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. Planning area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 100.

Applicable Goals, Objectives & Policies: Future Land Use Policy 13-2: Community Facilities may be permitted in land use categories other than Community Facilities category, provided such development is compatible with and does not adversely affect the development of surrounding land for designated purposes.

Staff Analysis

The proposed zoning will be consistent with the Town and Broward County Residential (1 DU/Acre) Land Use Plan designation. The subject site meets the Land Development Code's conventional nonresidential development criteria. The proposed use of the subject site as a water retention and passive recreation area is a compatible use and will not adversely effect living conditions of the surrounding area. In addition, this designation will not increase traffic intensities beyond the levels that were anticipated by the Residential (1 DU/Acre) Land Use Plan designation. Staff believes that the requested zoning designation may be among the most appropriate to enhance the Town's tax base at this location because it allows the petitioner to achieve the maximum development potential of Westridge Commons by not having to sacrifice any land that has commercial land use classification for a water retention area. Therefore, the proposed use can be considered to be in harmony with the general intent and purpose of the code and not harmful to the public welfare.

Findings of Fact

Rezoning:

Section 12-307:

The following findings of facts apply to the rezoning request.

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;
- (b) The proposed change will create an isolated zoning district that is unrelated but not incompatible with adjacent and nearby districts;

The Comprehensive Plan permits CF, Community Facilities Districts in such instances.

- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;
- (d) The proposed change will not adversely affect living conditions in the neighborhood;
- (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;
- (f) The proposed change will not adversely affect other property values;
- (g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;
- (h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;
- (i) There are not substantial reasons why the property cannot be used in accord with existing zoning.
- (j) The proposed zoning designation may be the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

Staff Recommendation

Recommendation: Based upon the above and the findings of facts in the positive, staff recommends approval, of petition ZB 4-5-01.

Planning & Zoning Board Recommendation

The Planning and Zoning Board recommended denial of the request at its August 22, 2001 meeting (3-2, Ms. Moore and Ms. Turin opposed).

Exhibits

1. Justification letter
2. Land use map
3. Subject site map
4. Aerial

Prepared by: _____

Reviewed by: _____

Supplemental data for the CF Rezoning Application for the "Westridge Commons"

The Town of Davie requires specific criteria to be reviewed for all rezoning requests. The following questions are provided on the rezoning application and are answered below:

1. *Whether or not the proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof:*

The site has a current land use designation of "Residential 1 DU/AC", as shown on the Town of Davie and Broward County land use plans. The uses permitted under the proposed CF zoning district are consistent with the uses permitted under the Residential 1 DU/AC land use category.

2. *Whether or not the proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts:*

The proposed change would not create an isolated zoning district that would be unrelated and incompatible with the adjacent and nearby districts. The uses permitted in the CF zoning district are permitted within virtually all land use categories of the Town of Davie Comprehensive Plan. The purposes of rezoning the land to the CF district are to provide for water management/lake/preservation, and passive recreational uses (such as viewing areas and horse trails).

3. *Whether or not the existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change:*

The existing AG zoning district boundaries were not illogically drawn in relation to the existing conditions of the site. The AG district extends north of this property along Flamingo Road.

4. *Whether or not the proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety:*

The proposed uses for this property are water management/lake/preservation and passive recreational uses (such as viewing areas and horse trails) only. This would actually decrease traffic use from the uses that would be permitted in the AG zoning district.

5. *Whether or not the proposed change will adversely affect other property values:*

This change would not adversely affect other property values in the area. It would enhance the land to the north by creating a water management/lake/preservation, and passive recreational buffer that would be approximately 262 feet between the land is proposed for the B-3 zoning district, abutting the south of the property.

6. *Whether or not the proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations:*

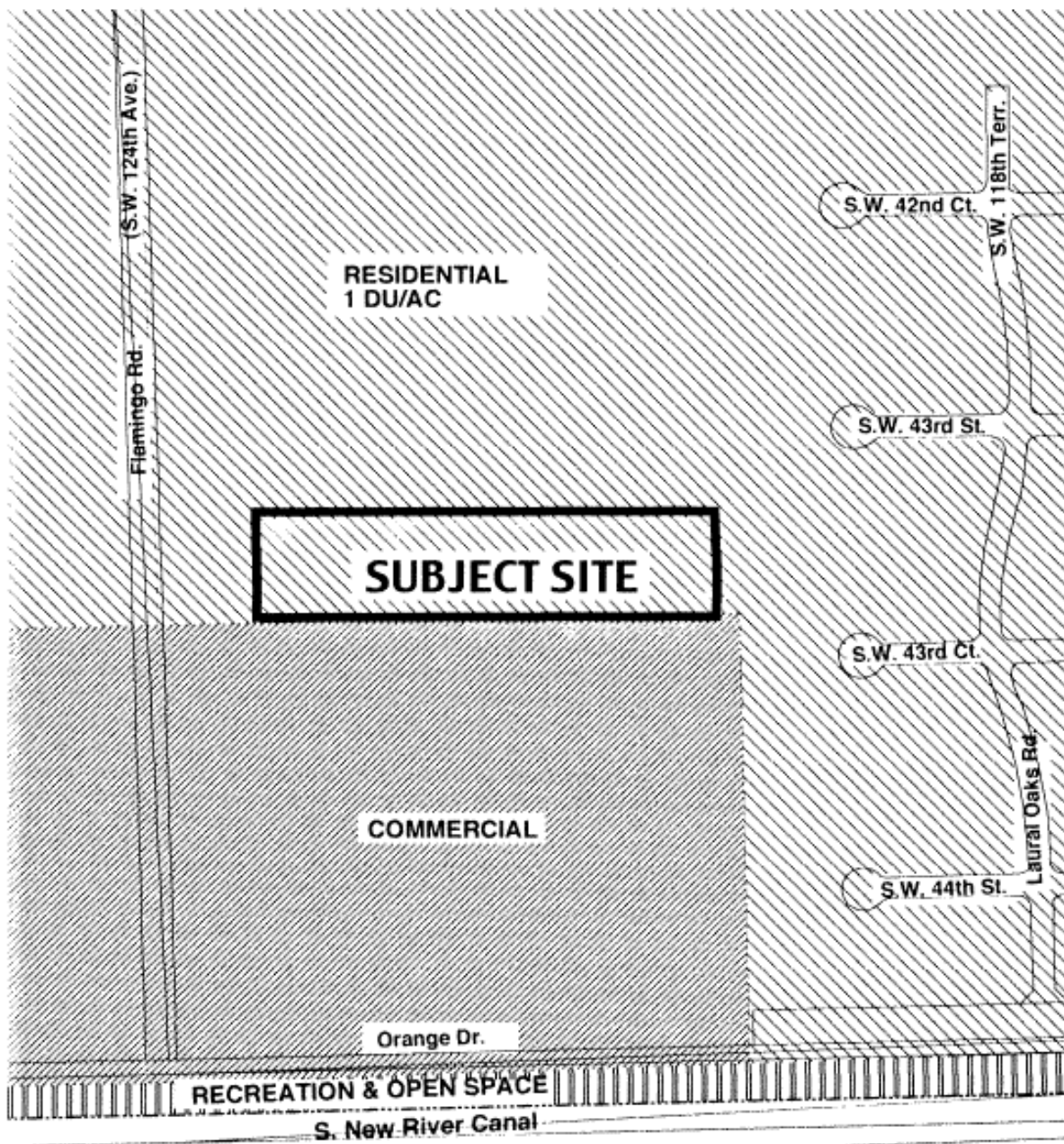
This proposed change would not deter the improvement of other property in the area. As stated above, the water management and passive recreation for this land would create a buffer between the proposed B-3 zoning district to the south and any future development to the north of this subject site.

7. *Whether or not the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.*

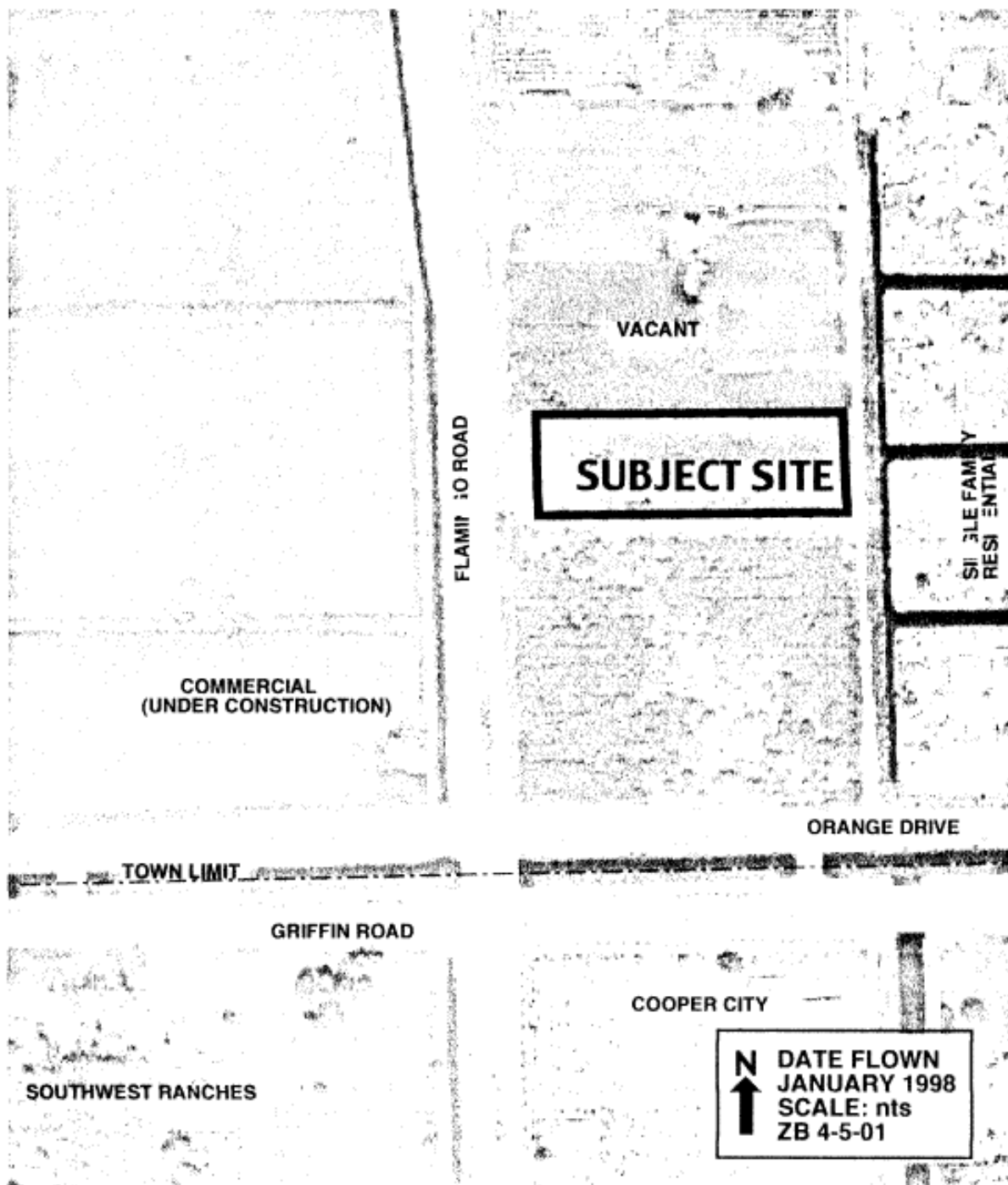
The proposed change will not grant a special privilege to an individual owner.

8. *Whether or not there are substantial reasons why the property cannot be used in accord with existing zoning.*

The existing zoning district does not permit water management and passive recreation for commercial development. By rezoning this property to the CF district, it would allow for the water management/lake/preservation, and passive recreation that is planned as a buffer between any future development to the north of this site.



PETITION NUMBER		N 4
ZB 4-5-01		
Subject Site Area Future Land Use Plan		
PREPARED 1/18/01 Scale: 1"=300'		
BY THE PLANNING & ZONING DIVISION		



VACANT

SUBJECT SITE

COMMERCIAL
(UNDER CONSTRUCTION)

FLAMINGO ROAD

SINGLE FAMILY
RESIDENTIAL

ORANGE DRIVE

TOWN LIMIT

GRIFFIN ROAD

SOUTHWEST RANCHES

COOPER CITY

N
↑
DATE FLOWN
JANUARY 1998
SCALE: nts
ZB 4-5-01

